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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ANDREA FINKE-ANLAUFF, ANDREAS MYKA, LAURA  
HUHTELA-BREMER, YOUNGHEE JUNG, OLOF SCHYBERGSON,  
VESA METSATAHTI, ANNIKA MACKE, TOMI HAKARI, CHRISTIAN  
LINDHOLM, and OLLI OKSANEN

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Appeal 2009-005542  
Application 10/792,175  
Technology Center 2100

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Decided: May 27, 2010

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*Before* HOWARD B. BLANKENSHIP, JEAN R. HOMERE, and THU A.  
DANG, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

## I. STATEMENT OF THE CASE

Appellants appeal from the Examiner's final rejection of claims 1, 2, 4-26, and 28-36 under 35 U.S.C. § 134(a) (2002). Claims 3 and 27 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

We affirm-in-part.

## A. INVENTION

According to Appellants, the invention relates to digital communication and, more specifically, to an application for providing digital communication devices with a media diary that associates digital media files period of time, moments in time or events (Spec. 1, ll. 5-7).

## B. ILLUSTRATIVE CLAIMS

Claims 1, 26 and 29 are exemplary and are reproduced below:

1. A product for providing access to media files on a digital device, the product comprising:

a computer-readable storage medium; and

computer-readable program instructions embodied in the computer-readable storage medium, the computer-readable program instructions comprising:

first instructions for generating a media view that provides access to at least one digital media file and associates the at least one digital media file with a period of time; and

second instructions for generating a timeline view that is presented in combination with the media view and provides access to the at least one digital media file according to periods of time defined in the timeline and according to events represented in the timeline.

26. A method for digital media management in a digital device, the method comprising:

receiving, at the digital device, a digital media file having metadata associated with the digital media file;

transmitting the file to a media diary application that associates the digital media file with a period in time based on the metadata;

providing a user access to the digital media file via a media view that displays a representation of the digital media file in connection with the period of time; and

providing the user the ability to locate digital media files within the media view by scrolling a timeline that is displayed in conjunction with the media view.

29. A method for defining media file representation in a media view of a media diary application, the method comprising:

receiving a media file having associated metadata information;

determining a manner in which the media file will be represented in a media view of the media diary; and

individually presenting the media file as a media file representation in a date column of the media view in

accordance with the determination of the manner of representation.

### C. REJECTION

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Rothmuller                      WO 02/057959 A2                      Jul. 25, 2002

Claims 1, 2, 4-26, and 28-36 stand rejected under 35 U.S.C. § 102(b) as anticipated by the teachings of Rothmuller.

### II. ISSUE

Has the Examiner erred in finding that Rothmuller teaches:

(1) “instructions for generating a timeline view that is presented in combination with the media view and provides access to the at least one digital media file according to periods of time defined in the timeline and according to events represented in the timeline” (claim 1)? In particular, the issue turns on whether Rothmuller teaches providing access according to “events” represented in the timeline.

(2) “providing the user the ability to locate digital media files within the media view by scrolling a timeline that is displayed in conjunction with the media view” (claim 26)? In particular, the issue turns on whether Rothmuller teaches “scrolling a timeline.”

(3) “individually presenting the media file as a media file representation in a date column of the media view” (claim 29)?

### III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence:

#### *Rothmuller*

1. Rothmuller discloses displaying database object distributions as histograms or scatter plots, including timelines, calendars or maps, wherein distributions can be used to search for objects or to limit search results for a previous search (Abstract).
2. For a database search for photos, a search is conducted for photos taken on a certain date, or within a certain period of time (pg. 7, ll. 16-17).
3. A timeline shows the number of photos taken as a function of time over some period of time that can range from the time the first photo in the database was taken to the present (pg. 7, ll. 29-31; Fig. 1).
4. The timeline displays a vertical bar graph with bar heights that are representative of the number of photos taken during a given period of time normalized to the average number of photos taken during all such similar period of time in the database (pg. 8, ll. 27-31; Fig. 3).
5. The timeline includes adjustable time bands that can be moved to allow the timeline to specify the time period that is used to find matching photos (pg. 8, ll. 2-3; Fig. 3).
6. The adjustable time bands can be moved to find all photos in the database that are tagged with a date or timestamp that falls within the

- range indicated by the adjustable time bands, wherein photos falling within this range can be retrieved from the database, and displayed in the “best match” section of the image area (pg. 8, ll. 4-13; Fig. 1).
7. When search criteria are applied to the photos in the database, the order in which the photos are displayed is updated so that “best match” photos or photos that match all of the search criteria are displayed at the top of image area 100 in front of a first background color or pattern, while “close match” photos that match one or more but not all of the search criteria are displayed after the “best match” photos and are visually distinguished from them by, for example, being displayed in front of a second background color or pattern, and “no match” photos that fail to match any of the search criteria are displayed at the bottom of the image area in front of a third background color or pattern (pg. 7, ll. 4-15; Fig. 2).

#### IV. PRINCIPLES OF LAW

##### *35 U.S.C. § 102*

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citation omitted). “Anticipation of a patent claim requires a finding that the claim at issue ‘reads on’ a prior art reference.” *Atlas Powder Co. v. Ireco, Inc.*, 190 F.3d 1342, 1346 (Fed Cir. 1999) “In other words, if granting patent protection on

the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.” (*Id.*) (citations omitted).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987) (citations omitted).

The *claims* measure the invention. See *SRI Int’l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). “[T]he words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d at 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted). “[T]he PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)).

## V. ANALYSIS

### *Claims 1, 2, 4-25, 35, and 36*

As to independent claim 1, Appellants contend that “*Rothmuller* does not disclose events that are ‘represented in a timeline’” (App. Br. 7). In particular, Appellants contend that Rothmuller’s “customerized calendar events” are “not related to actual entries in a timeline or calendar, but instead simply serve to characterize the types of events for which corresponding tags might exist” (*id.*). Accordingly, Appellants contend that “*Rothmuller* fails to teach ‘second instructions for generating a timeline view that... provides



access to the at least one digital media file according to periods of time defined in the timeline and according to events represented in the timeline,” (*id.*).

The Examiner observes that “[t]he specification has some discussion on event, however, the only part that shows the relationship of event and timeline is ‘For the sake of brevity and clarity, the invention defines ‘period of time’ to include both moment of time and an event associated with a period of time’” (Ans. 12). In particular, the Examiner points out that “[t]he drawings does not show how an event is represented in the timeline” and thus “[t]here is no showing how an event is represented in the time line” (*id.*). Accordingly, the Examiner finds that “the claimed ‘... events represented in the timeline’ are indeed just events associated with a period of time or events associated with the timeline” (*id.*).

The first issue we address on appeal is whether the Examiner erred in finding that Rothmuller teaches “instructions for generating a timeline view that is presented in combination with the media view and provides access to the at least one digital media file according to periods of time defined in the timeline and according to events represented in the timeline” as required by claim 1. In particular, we address whether Rothmuller teaches providing access according to “events” represented in the timeline.

The language of claim 1 simply does not place any limitation on what the term “events” is to be, is to represent, or is to mean, other than that the events are “represented in the timeline.” In fact, claim 1 does not even define what “represented” is. Furthermore, though the Examiner observes

that “[t]he specification has some discussion on event” (Ans. 12), there is no definition of “events” in Appellants’ Specification.

Accordingly, we will not confine “events” to “customerized calendar events” of Rothmuller that “simply serve to characterize the types of events for which corresponding tags might exist”, as Appellants apparently contend. Absent a definition of the terms in the claims and the Specification, “the words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d at 1312 (Fed. Cir. 2005) (en banc) (internal citations omitted). Thus, we give the claims their broadest reasonable interpretation, consistent with the Specification, as it would be interpreted by one of ordinary skill in the art. *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) and *Suitco*, 2010 WL 1462294, at \*4.

Accordingly, we give “an event” its broadest reasonable interpretation as any occurrence and similarly interpret “represented in the timeline” as being a factor in the generation of the timeline. Thus, we construe “events represented in the timeline” as any occurrences factored in the generation of the timeline, consistent with the definition provided in claim 1.

Rothmuller discloses displaying a database of photos in a timeline (FF 1-2), wherein the timeline shows the number of photos taken as a function of time over a period of time (FF 3). That is, the timeline displays a vertical bar graph with bar heights that represents the taking of photos during a given period of time (FF 4).

We find Rothmuller’s taking of photos represented in the timeline to read on Appellants’ claimed “events” of claim 1. That is, the occurrences or

events of photo taking are factored into the generation of the timeline and thus, are represented in the timeline, as specifically defined in the claim. Thus, we find that Appellants' claims do not recite any limitation to distinguish the claimed invention from such interpretation.

Accordingly, we find the Examiner did not err in rejecting independent claim 1 and independent claim 35 falling therewith, and claims 2, 4-25, and 36 depending respectively therefrom under 35 U.S.C. § 102(b).

*Claim 26*

As to claim 26, Appellants contend “*Rothmuller* fails to teach ‘providing the user the ability to locate digital media files with the media view by scrolling a timeline that is displayed in conjunction with the media view’” (App. Br. 8). In particular, Appellants contend that “*Rothmuller* discloses only a timeline that includes ‘time bands’ (i.e., markers on a timeline) that can be moved along a timeline to limit the temporal range of consideration when search for objects in a database” and that there is “dissimilarity between ‘scrolling a timeline’ [as required by claim 26] and [scrolling] the ‘timebands’ of *Rothmuller*” (App. Br. 9).

The Examiner finds that “Fig. 1 and Fig. 3 [of *Rothmuller*] show left and right scrolling arrows included in the left and right corners of the timeline” wherein “[a]ctivating the left or right scrolling arrows will move the timeline to the left or right” (Ans. 13). Accordingly, the second issue we address on appeal is whether *Rothmuller* teaches “providing the user the ability to locate digital media files within the media view by scrolling a timeline that is displayed in conjunction with the media view” as required by

claim 26. In particular, we address whether Rothmuller teaches “scrolling a timeline.”

After reviewing the record on appeal, we agree with Appellants that the passages of Rothmuller cited by the Examiner do not describe scrolling of a timeline. Although we agree with the Examiner that there are “left and right scrolling arrows included in the left and right corners of the timeline” (Ans. 13), there is no teaching in the sections pointed out by the Examiner that the arrows are for scrolling of the timeline, as required by claim 26.

Instead, Rothmuller discloses adjustable time bands that can be moved to allow the timeline to specify the time period that is used to find matching photos (FF 5), wherein photos falling within this time period are retrieved from the database and displayed (FF 6). We agree with Appellants’ contention there is “dissimilarity” between the claimed “scrolling a timeline” and scrolling of the timebands of Rothmuller (App. Br. 9).

As such, we conclude that Appellants have shown that the Examiner erred in rejecting claim 26 and claim 28 depending therefrom under 35 U.S.C. § 102(b) for the reasons as set forth above. We thus reverse the rejection of claims 26 and 28 as anticipated by Rothmuller.

#### *Claim 29*

As to claim 29, Appellants contend that “these portions of *Rothmuller* [cited by the Examiner] do not address the display of individual media file representations, but rather disclose the presentation of graphical displays that represent groups or sets of media files associated with certain dates” (App. Br. 10). In particular, Appellants contend that Rothmuller’s teachings “lack

the individual presentation of media file representations within date columns” (*id.*).

The Examiner finds that Rothmuller teaches that “the timeline displays not only the temporal distribution of objects in the database over the indicated time period, but also the temporal distribution of all objects in the database matching the specified tag search criteria over the indicated time period” (Ans. 14), and thus “Rothmuller teachings chronological browsing for specific media files and individual presentation of media file representations within a date column” (*id.*). Accordingly, the third issue we address on appeal is whether Rothmuller teaches “individually presenting the media file as a media file representation in a date column of the media view” as required by claim 29.

After reviewing the record on appeal, we agree with Appellants that the passages of Rothmuller cited by the Examiner do not describe individually presenting the media file in a date column of the media view. Although we agree with the Examiner that Rothmuller discloses “temporal distribution of all objects in the database matching the specified tag search criteria” (Ans. 14), there is no teaching in the sections pointed out by the Examiner that a media file is individually presented in a date column, as required by claim 29.

Instead, Rothmuller discloses displaying photos so that “best match” photos are displayed at the top of an image area, in front of a first background color or pattern, while “close match” photos are displayed after the “best match” photos in front of a second background color or pattern,

and “no match” photos are displayed at the bottom of the image area in front of a third background color or pattern (FF 7). We agree with Appellants’ contention that the sections of Rothmuller relied on by the Examiner “lack the individual presentation of media file representations within date columns” (App. Br. 10).

As such, we conclude that Appellants have shown that the Examiner erred in rejecting claim 29 and claim 30-34 depending therefrom under 35 U.S.C. § 102(b) for the reasons as set forth above. We thus also reverse the rejection of claims 29-34 as anticipated by Rothmuller.

## VII. CONCLUSIONS OF LAW

(1) The Examiner did not err in finding that claims 1, 2, 4-25, and 36 are anticipated by the teachings of Rothmuller.

(2) The Examiner erred in finding that claims 26 and 28-34 are anticipated by the teachings of Rothmuller.

## VII. DECISION

We affirm the Examiner's decision rejecting claims 1, 2, 4-25, and 36 but reverse the Examiner’s decision rejecting claims 26, and 28-34 under 35 U.S.C. § 102(b).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

**AFFIRMED-IN-PART**

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Application 10/792,175

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